

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 972 Session of 2013

INTRODUCED BY STACK, JUNE 11, 2013

REFERRED TO FINANCE, JUNE 11, 2013

AN ACT

1 Providing for the attachment and seizure by political  
 2 subdivisions of funds in certain bank accounts subject to a  
 3 tax lien in favor of the political subdivision, for the  
 4 challenge and adjudication of attachments authorized under  
 5 the act, and for immunity under certain circumstances.

6 The General Assembly of the Commonwealth of Pennsylvania  
 7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Bank Account  
 10 Attachment for Political Subdivision Tax Lien Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall  
 13 have the meanings given to them in this section unless the  
 14 context clearly indicates otherwise:

15 "Account." (1) Any of the following:

16 (i) Any funds from a demand deposit account,  
 17 checking account, negotiable order of withdrawal account,  
 18 savings account, time deposit account, money market  
 19 mutual fund account or certificate of deposit account.

20 (ii) Any funds paid toward the purchase of shares or

1 other interest in an entity described in paragraph (1),  
2 (2) or (3) of the definition of "financial institution."

3 (iii) Any funds or property held by a depository  
4 institution described in paragraph (4) of the definition  
5 of "financial institution."

6 (2) The term shall not include any of the following:

7 (i) An account or portion of an account of a  
8 financial institution to which an obligor does not have  
9 access due to the pledge of the funds as security for a  
10 loan or other obligation.

11 (ii) Funds or property deposited to an account of a  
12 financial institution after the time that the financial  
13 institution initially attaches the account.

14 (iii) An account or portion of an account of a  
15 financial institution to which the financial institution  
16 has a present right to exercise a right of setoff.

17 (iv) An account or portion of an account of a  
18 financial institution that has an account holder of  
19 interest named as an owner on the account, and an account  
20 or portion of an account of a financial institution owned  
21 by spouses as tenants by the entireties.

22 (v) An account or portion of an account of a  
23 financial institution to which the obligor does not have  
24 an unconditional right of access.

25 "Account holder of interest." A person, other than the  
26 obligor of an account, who has an ownership interest in the  
27 account.

28 "Financial institution." Any of the following:

29 (1) A depository institution as defined by section 3(c)  
30 of the Federal Deposit Insurance Act (64 Stat. 873, 12 U.S.C.

1 § 1813(c)).

2 (2) An institution-affiliated party as defined by  
3 section 3(u) of the Federal Deposit Insurance Act.

4 (3) A Federal credit union or State credit union as  
5 defined in section 101 of the Federal Credit Union Act (48  
6 Stat. 1216, 12 U.S.C. § 1752), including an institution-  
7 affiliated party of such credit union as defined in section  
8 206(r) of the Federal Credit Union Act.

9 (4) A benefit association, insurer, safe deposit  
10 company, money market mutual fund or similar entity  
11 authorized to do business in this Commonwealth that holds  
12 property or maintains accounts reflecting property belonging  
13 to others.

14 "Lien obligation." The amount of a tax lien in favor of a  
15 political subdivision.

16 "Local taxing authority." An agency of a political  
17 subdivision of the Commonwealth authorized by law to collect  
18 taxes on behalf of itself or any other political subdivision.

19 "Obligor." A person whose property is subject to a tax lien  
20 in favor of a political subdivision.

21 Section 3. Administrative bank attachment for accounts of  
22 obligors to political subdivisions.

23 (a) Authorization to local taxing authorities.--

24 (1) A local taxing authority may order the attachment  
25 and seizure of funds in an account within this Commonwealth  
26 that the local taxing authority reasonably believes is owned  
27 by an obligor who is subject to a lien in favor of the  
28 political subdivision.

29 (2) In each case, the local taxing authority shall apply  
30 the amount seized to the obligor's lien obligation upon

1 receiving seized funds.

2 (3) A local taxing authority is prohibited from  
3 attaching or seizing any funds in an obligor's account unless  
4 written notice of the lien against such funds was previously  
5 mailed to the obligor at his current or last known address,  
6 by first class mail, at least 30 days before the local taxing  
7 authority orders the attachment of funds in the obligor's  
8 account.

9 (4) The notice shall contain, in addition to any other  
10 information required by law, the following:

11 (i) The address of the local taxing authority.

12 (ii) The telephone number, address and name of a  
13 contact person at the local taxing authority.

14 (iii) The name and Social Security number, Federal  
15 employer identification number or other taxpayer  
16 identification number of the obligor.

17 (iv) The current or last known address of the  
18 obligor.

19 (v) The tax claim or claims giving rise to the lien.

20 (vi) The total amount of the lien obligation.

21 (vii) The law under which the lien obligation is  
22 authorized, and the manner in which the lien obligation  
23 may be challenged.

24 (viii) The date the notice is being sent.

25 (b) Notice to financial institutions.--

26 (1) If a local taxing authority has a reasonable belief  
27 that an obligor has an account at a particular financial  
28 institution, the local taxing authority may order the  
29 attachment of funds in the obligor's account by sending a  
30 notice to the financial institution.

1           (2) The notice shall be sent by an electronic format,  
2           except that a local taxing authority and a financial  
3           institution may agree to any other reasonable means of  
4           transmitting notice.

5           (3) The notice shall include all of the following:

6           (i) The name of the obligor.

7           (ii) The amount of the lien obligation.

8           (iii) The current or last known address of the  
9           obligor.

10          (iv) The Social Security number, Federal employer  
11          identification number or other taxpayer identification  
12          number of the obligor.

13          (v) An order to immediately attach one or more  
14          accounts held by the financial institution in the name of  
15          the obligor for an aggregate amount equal to the lesser  
16          of the amounts in all accounts or the lien obligation.

17          (c) Duties of financial institutions.--

18          (1) Upon receipt of the notice described in subsection  
19          (b), a financial institution shall promptly attach one or  
20          more of the accounts of the obligor held by the financial  
21          institution for an aggregate amount equal to the lesser of:

22               (i) the total of the amounts in all the accounts of  
23               the obligor held by the financial institution; or

24               (ii) the amount stated in the notice.

25          (2) Upon the attachment and until the financial  
26          institution receives further notice from the local taxing  
27          authority as provided in this section, the financial  
28          institution may not allow any activity to occur in any of the  
29          accounts attached up to the amount of the attachment.

30          (3) Within three business days after the financial

1 institution receives the notice described in subsection (b),  
2 the financial institution shall:

3 (i) Notify the obligor of the attachment of his  
4 account or accounts, which notice shall include all of  
5 the following:

6 (A) the accounts attached;

7 (B) the amount of the attachment;

8 (C) that the attached funds are frozen, may not  
9 be used and are subject to seizure;

10 (D) the local taxing authority ordering  
11 attachment;

12 (E) the name, address and telephone number of  
13 the local taxing authority.

14 (ii) Notify the local taxing authority that the  
15 financial institution has complied with the attachment  
16 order, and include a copy of the notice to the obligor  
17 under this subsection.

18 (4) (i) The financial institution may assess a  
19 reasonable fee against the accounts or the obligor in  
20 addition to the amount attached for each notice received  
21 under subsection (b).

22 (ii) In the event of insufficient funds to cover  
23 both the fee authorized by subparagraph (i) and the  
24 amount identified in the notice under subsection (b), the  
25 financial institution may first deduct the fee from the  
26 amount attached and retain it from the amount seized and  
27 forwarded to the local taxing authority as provided in  
28 this section.

29 (d) Local taxing authority notice to obligor.--

30 (1) Except as otherwise provided in paragraph (3),

1 within three business days after the local taxing authority  
2 has received notice from the financial institution under  
3 subsection (c) (3) (ii) of compliance with the order to attach  
4 the obligor's account, the local taxing authority shall send  
5 a notice to the obligor by first class mail to the obligor's  
6 current or last known address.

7 (2) The notice shall reference the bank notice required  
8 by subsection (c) (3) (i) and contain all of the following:

9 (i) The address of the local taxing authority.

10 (ii) The name, address and telephone number of the  
11 local taxing authority.

12 (iii) The name and Social Security number, Federal  
13 employer identification number or other taxpayer  
14 identification number of the obligor, except that the  
15 notice shall include only the last four digits of any  
16 Social Security number.

17 (iv) The current or last known address of the  
18 obligor.

19 (v) The total amount of the lien obligation and the  
20 delinquent tax or taxes giving rise to the lien.

21 (vi) The date the notice is being sent.

22 (vii) A statement informing the obligor that the  
23 local taxing authority has ordered the financial  
24 institution to attach the amount of the lien obligation  
25 owed by the obligor from one or more of the accounts of  
26 the obligor.

27 (viii) For each account of the obligor, the name of  
28 the financial institution that has attached amounts as  
29 required by this section.

30 (ix) A statement that the order may be challenged in

1           accordance section 5(a).

2           (x) A statement informing the obligor that unless a  
3           timely challenge is made by the obligor or an account  
4           holder of interest under section 5(a), the local taxing  
5           authority shall notify the financial institution to seize  
6           the amount attached by the financial institution and  
7           forward it to the local taxing authority.

8           (3) The local taxing authority shall not be required to  
9           send the notice described under this subsection if, prior to  
10          the time that the notice must be sent, the local taxing  
11          authority and the obligor agree to an arrangement under which  
12          the obligor will pay amounts owed under the lien obligation.

13 Section 4. Multiple notices.

14          (a) General rule.--Where, with respect to a single obligor,  
15          a financial institution receives attachment notices from  
16          multiple local taxing authorities or also receives a notice of  
17          attachment from the Commonwealth and the multiple notices are  
18          not yet finally resolved under section 3(d)(3) and section 5 or  
19          other applicable law for purposes of attachment under other law,  
20          the financial institution shall take the following actions:

21                 (1) Attach any funds in accordance with the notices  
22                 received.

23                 (2) Provide each local taxing authority and, if the  
24                 Commonwealth has given a notice, the Department of Revenue, a  
25                 copy of all other notices of attachment.

26          (b) Insufficient funds.--In the event of insufficient funds  
27          to cover both the fees authorized by section 3(c)(4)(i) and the  
28          amounts attached by all notices:

29                 (1) The financial institution may retain 100% of the fee  
30                 authorized by section 3(c)(4)(i), as well as any other amount



1 authorized by law.

2 (2) The balance shall be paid according to lien  
3 priority. In any instance where the priority of multiple  
4 liens is equal, the liens shall have priority according to  
5 the order in which attachment notices are received by the  
6 bank with highest priority to the earliest notice.

7 Section 5. Challenges to attachment.

8 (a) Obligor rights.--

9 (1) An obligor or an account holder of interest may  
10 challenge the actions of a local taxing authority under this  
11 section by filing a motion with the court of common pleas  
12 within 30 days of the date of the notice sent under section  
13 3(d).

14 (2) An obligor or an account holder of interest may  
15 challenge the actions of a local taxing authority based on  
16 any of the following:

17 (i) a mistake as to any of the following:

18 (A) The identity of the obligor.

19 (B) The ownership of the account.

20 (C) The contents of the account.

21 (D) The amount of the tax lien due, based on  
22 amounts and dates of payments and on payment  
23 application by the taxing authority, but not on the  
24 basis of liability for the debt except as permitted  
25 under paragraph (3);

26 (ii) a request for spousal relief from joint  
27 liability, but not if the spouse is in fact jointly  
28 liable for the underlying debt; or

29 (iii) any other good cause.

30 (3) An obligor or an account holder of interest may not

1 challenge the actions of a local taxing authority based on a  
2 mistake or error in the original assessment underlying a lien  
3 against the obligor, unless the local taxing authority failed  
4 to provide notice and an opportunity to challenge the  
5 original assessment.

6 (b) Duties of financial institutions.--

7 (1) If a timely challenge is not made by the obligor or  
8 an account holder of interest under subsection (a), the local  
9 taxing authority shall direct the financial institution to:

10 (i) seize the amount attached by the financial  
11 institution and forward it to the local taxing authority;

12 (ii) reduce the amount attached by the financial  
13 institution to a revised amount as stated by the local  
14 taxing authority, seize the revised amount and forward it  
15 to the local taxing authority and release the balance of  
16 the account; or

17 (iii) release the amount attached by the financial  
18 institution.

19 (2) The local taxing authority may direct a financial  
20 institution to seize and forward attached funds before the  
21 time for filing a timely challenge under subsection (a) upon  
22 agreement among the local taxing authority, the obligor, and,  
23 in cases where the local taxing authority is aware of an  
24 account holder of interest, the account holder of interest.

25 (c) Duties of local taxing authorities.--

26 (1) If a determination is made by the court pursuant to  
27 a challenge under subsection (a) that the account of the  
28 obligor should not have been attached, the local taxing  
29 authority shall notify the financial institution in the  
30 manner specified in section 3(b)(2), to release the amount

1 attached by the financial institution.

2 (2) If a determination is made by the court pursuant to  
3 a challenge under subsection (a) to reduce the amount  
4 attached by the financial institution, the local taxing  
5 authority shall notify the financial institution, in the  
6 manner specified in section 3(b)(2), to revise the amount as  
7 stated by the local taxing authority, to seize and forward  
8 the revised amount to the local taxing authority and to  
9 release the balance of the account attached by the financial  
10 institution.

11 (3) If a determination is made by the court pursuant to  
12 a challenge made under subsection (a) that the attachment by  
13 the financial institution was proper, the local taxing  
14 authority shall notify the financial institution, in the  
15 manner specified in section 3(b)(2), to seize the amount  
16 attached by the financial institution and forward it to the  
17 local taxing authority.

18 (d) Immunity.--A financial institution that complies with an  
19 order and notice from a local taxing authority under this  
20 section shall not liable to any person, including the local  
21 taxing authority, the obligor or any account holder of interest  
22 for any of the following:

23 (1) Disclosure of information to the local taxing  
24 authority under this section;

25 (2) Wrongful dishonor or any other claim relating to the  
26 attachment and seizure of any account as ordered by the local  
27 taxing authority.

28 (3) Sending any amount seized to the local taxing  
29 authority.

30 (4) Any other action taken in good faith to comply with

1 the requirements of this section.

2 (e) Fee reimbursement not required.--A financial institution  
3 shall not be required to reimburse fees assessed against an  
4 account or an obligor as a result of a local taxing authority  
5 instituting an action under this section or as otherwise  
6 permitted by law or authorized by contract.

7 (f) Limitation of liability.--The liability of a local  
8 taxing authority for any action taken under this act shall not  
9 exceed the amount of any fee retained by the financial  
10 institution under section 3(c)(4)(i).

11 (g) Construction.--Nothing in this section shall be  
12 construed to prohibit a local taxing authority, Commonwealth  
13 agency or any political subdivision from collecting obligations  
14 due from an obligor in any other manner authorized by law.

15 Section 6. Effective date.

16 This act shall take effect in 60 days.